

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

DEC 07 2012

Adams

OFFICE OF
MANAGING DIRECTOR

Aaron P. Shainis, Esq.
Shainis & Peltzman, Chartered
1850 M Street, NW, Suite 240
Washington, DC 20036

Re: Petition for Reconsideration and Extension of
Time (47 C.F.R. §§ 1.106, 1.1164, 1.1910)
Licensee/Applicant: KM Television of El Dorado,
LLC
Station: KEJB (TV)
Fee: Fiscal Year (FY) 2011 Regulatory Fees
Date Filed: May 23, 2012
Fee Control No.: RROG-11-00014336
Regulatory Fee (FY 2011): \$572.62

Dear Mr. Shainis:

This responds to Licensee's *Petition for Reconsideration*¹ and request for extension of time to supplement its filing and respond to our *Denial*² of Licensee's request for waiver of the Fiscal Year (FY) 2011 regulatory fee (*Request*). On April 30, 2012, we denied Licensee's *Request* and demanded payment of the fee within 30 days. That time passed and, as our records show, Licensee failed to pay the fee; therefore, it is delinquent. Because of the delinquency status and the additional reasons set forth below, we dismiss and deny Licensee's *Petition for Reconsideration* and its request for extension of time.

Before discussing the reasons for dismissal and denial, we emphasize that Licensee owes \$572.62³, which includes the regulatory fee, a 25% penalty for late payment,⁴ and required interest, penalties, and charges of collection.⁵ This payoff amount is valid for ten days from the date of this letter, after which additional charges will accrue. Moreover, because Licensee is delinquent, we are required by our rule at 47 C.F.R. § 1.1910 to withhold action on this *Petition for Reconsideration* and any other pending or filed application until Licensee pays the fee and

¹ Letter from Aaron P. Shainis, Shainis & Peltzman, Chartered, 1850 M Street, NW, Washington, DC 20036 to Office of Secretary, FCC, 445 12th Street, S.W., Washington, DC 20554, Attn: Mark Stephens, CFO (May 23, 2012) (*Petition for Reconsideration*).

² Letter from Mark Stephens, CFO, FCC to Aaron P. Shainis, Esq., Shainis & Peltzman, Chartered, 1850 M Street, NW, Ste 240, Washington, DC 20036 (Apr. 30, 2012) (*Denial*).

³ The amount stated in the *Denial* as owed is incorrect; the FY 2011 regulatory fee was \$395.00.

⁴ 47 U.S.C. § 159 (c)(1).

⁵ 31 U.S.C. § 3717.

accrued charges or makes satisfactory arrangements for payment.⁶ Furthermore, any pending application will be dismissed within 30 days, and Licensee may not receive an additional notification of the procedures and consequences set forth at section 1.1910.

We next discuss our rules set forth at 47 C.F.R. §§ 1.1164 and 1.106 that require us to dismiss and deny Licensee's *Petition for Reconsideration*.

First, our records show that Licensee failed to pay the FY 2011 Regulatory Fee within 30 days after our *Denial*, which cautioned, "[i]f Licensee fails to pay the full amount due [within 30 days from the date of the *Denial*], the debt is delinquent and the statutory penalty of 25% of the unpaid fee, and interest and applicable additional penalties required by 31 U.S.C. § 3717 will accrue from the date of th[e] letter."⁷ Furthermore, we warned Licensee that the filing of a petition for reconsideration does not toll the 30-day period.⁸ Because Licensee is delinquent in paying the fee, we are obliged to follow our rules at 47 C.F.R. § 1.1164(c)⁹ and (e)¹⁰ and dismiss and deny the *Petition for Reconsideration*. Although that would conclude the matter, we note that had Licensee paid the fee and accrued charges, under 47 C.F.R. § 1.106, we would dismiss and deny.

Section 1.106(p) permits us to dismiss or deny a petition for reconsideration that fails to meet Commission standards. Licensee states in part, it "respectfully request[s] that the denial be reconsidered and the licensee afforded 90 days to submit the requisite financial showings."¹¹ This does not present a valid ground for reconsideration, which requires the Licensee to "state with particularity the respects in which petitioner believes the action taken by ... the designated authority should be changed."¹² Moreover, multiple grounds for dismissal and denial exist, for example, and not to the exclusion of others, the *Petition for Reconsideration* fails to identify any material error, omission or reason warranting reconsideration, and it fails to state with particularity the respects in which petitioner believes the action taken should be changed as required by 47 C.F.R. § 1.106(d). Either ground is sufficient to dismiss or deny, so we need not address any other possible reasons.

⁶ 47 C.F.R. § 1.1910(b)(2) ("Action will be withheld on applications, including on a petition for reconsideration or any application for review of a fee determination, or request for authorization by any entity found to be delinquent in its debt to the Commission").

⁷ *Id.* at 3.

⁸ *Id.* n. 13 (quoting Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for Fiscal Year 1994, *Report and Order*, 9 FCC Rcd 5333, 5346 ¶ 35 (1994), *recon. denied*, 10 FCC Rcd 12759 (1995); 47 C.F.R. § 1.106(n) ("the filing of a petition for reconsideration shall not excuse any person from complying with or obeying any decision, order, or requirements of the Commission").

⁹ 47 C.F.R. § 1.1164(c) ("If a regulatory fee is not paid in a timely manner, the regulatee will be notified of its deficiency. This notice will automatically assess a 25 percent penalty, subject the delinquent payor's pending applications to dismissal, and may require a delinquent payor to show cause why its existing instruments of authorization should not be subject to rescission.").

¹⁰ 47 C.F.R. § 1.1164(e) ("Any pending or subsequently filed application submitted by a party will be dismissed if that party is determined to be delinquent in paying a standard regulatory fee or an installment payment.").

¹¹ *Petition for Reconsideration*.

¹² 47 C.F.R. § 1.106(d)(1).

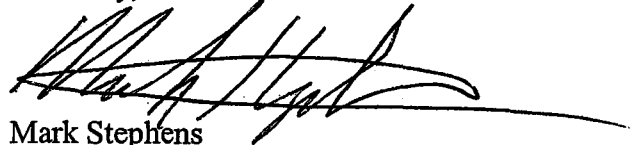
Licensee is delinquent in paying a non-tax debt, thus this letter notifies Licensee that 31 U.S.C. § 3717(e) and 47 C.F.R. § 1.1940 require us to assess (a) collection charges, (b) interest at the Treasury rate when the debt is more than 30 days delinquent, and (c) a penalty of 6% after 90 days. These charges started to accrue and will continue until Licensee pays the debt in full or executes an approved written installment payment plan.

Furthermore, under 31 U.S.C. § 3711(g), without further notice, and usually within 180 days or less of delinquency, we will transfer the delinquent debt to Treasury, which will initiate collection action through private collection activities and assess additional charges. In addition, we may refer the debt to the Department of Justice, which may result in litigation and additional costs.

Finally, under 31 U.S.C. § 3716, 31 C.F.R. § 285.5 and 47 C.F.R. § 1.1912, some or all of the debt may be collected by non-centralized or centralized administrative offset. Also, under 31 U.S.C. § 3711(e), this debt and Licensee's payment history will be reported to credit reporting information bureaus. Because we have furnished notice here, Licensee may not receive another notification of this process.

If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Mark Stephens', with a long horizontal flourish extending to the right.

Mark Stephens
Chief Financial Officer

Shainis & Peltzman, Chartered

Counselors at Law

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May 23, 2012 FILED/ACCEPTED

MAY 23 2012

Federal Communications Commission
Office of the Secretary

VIA HAND DELIVERY

Office of the Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

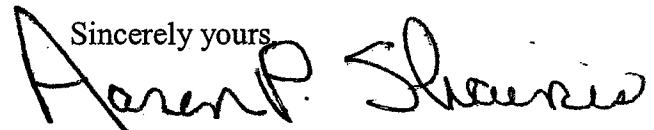
Attn: Mark Stephens
Chief Financial Officer
Office of the Managing Director

Re: KM Television of El Dorado, LLC
Station KEJB(TV)
FY 2011 Regulatory Fees
Fee Control No. RROG-11-00013906

Dear Mr. Stephens:

On behalf of KM Television of El Dorado, LLC ("KM"), I am responding to your letter of April 30, 2012 denying the request for a waiver of the 2011 regulatory fees. You note in your letter that certain financial information has not been filed. The reason for not filing that was due to the applicant not having filed its necessary tax returns. Those returns have still not been filed and the financial information necessary is still being acquired. Accordingly, it is respectfully requested that the denial be reconsidered and the licensee be afforded 90 days to submit the requisite financial showings. If you have any questions with respect to this matter, please communicate with the undersigned.

Sincerely yours



Aaron P. Shainis
Counsel for
KM Television of El Dorado, LLC

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